

1 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

2 A.G. Filler et al.

Attorney Docket No. WRUW16938

3 Serial No: 08/028,795

Group Art Unit: 3305

4 Filed: March 8, 1993

Examiner: B. Casler

5 Title: IMAGE NEUROGRAPHY AND DIFFUSION ANISOTROPY IMAGING

#14
FD
3/22

6

7 REQUEST FOR REFUND OF OVERPAYMENT OF EXTENSION OF TIME FEES

8 Seattle, Washington 98101

RECEIVED

9 March 1, 1995

MAR 10 1995

GROU

10 TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

11 On November 14, 1994, a response was filed to a July 11, 1994 Office Action that relates to
12 the above-identified patent application. A formal request for a one-month extension of time should
13 have accompanied the response, but was inadvertently omitted. Although no formal request for an
14 extension of time was submitted, the transmittal letter for the November 14, 1994 response noted that
15 any additional fees should be charged to Deposit Account No. 03-1740.

16 Applicants' counsel contacted Examiner Casler by telephone when counsel recognized that a
17 formal request for a one-month extension of time had not been transmitted to the USPTO with the
18 November 14, 1994 response. When applicants' counsel inquired as to how best to handle the
19 omission, Examiner Casler stated that he had not previously encountered such a situation, but would
20 speak to others in the Office to determine the procedure to be followed. Subsequently, additional
21 confusion was encountered because Examiner Casler mistakenly informed applicants' counsel that the
22 response was timely. The Examiner's mistake apparently occurred because the November monthly
23 anniversary of the Office Action (Friday, November 11, 1994) was a federal holiday and applicants'
24 response was filed on the following Monday. Examiner Casler evidently believed this date to be the
25 end of the three-month shortened statutory period. When applicants' counsel discovered the mistake,

1 Examiner Casler was again contacted by telephone. Since the statutory six-month period was near a
2 close, it was determined that the best way of handling the situation was for applicants' counsel to send
3 a request for an extension of time to Examiner Casler by facsimile. The understanding was that the
4 request would be hand carried to the appropriate section within the PTO, and, further, that a
5 determination would be made as to whether the filing of a response within one month of the
6 three-month statutory period and the concurrent notation that additional fees be charged to counsel's
7 deposit account was sufficient basis for paying only a one-month extension fee. The request for an
8 extension of time that was sent to Examiner Casler by facsimile (copy enclosed), specifically noted
9 that the assignees of the subject patent application our small entities (with Small Entity Declarations
10 being of record).

11 On January 11, 1995, a charge of \$870 was made to Deposit Account No. 03-1740 (the
12 deposit account of applicants' counsel) with a Fee Code 117 being indicated (3-month extension of
13 time for a large entity). A copy of the Monthly Statement of Deposit Account which evidences
14 payment is enclosed.

15 Applicants respectfully request a refund of the difference between the time extension fee for a
16 large entity and the time extension fee for a small entity. If it is proper to charge applicants for a
17 three-month extension of time, the amount that should be refunded is \$435.

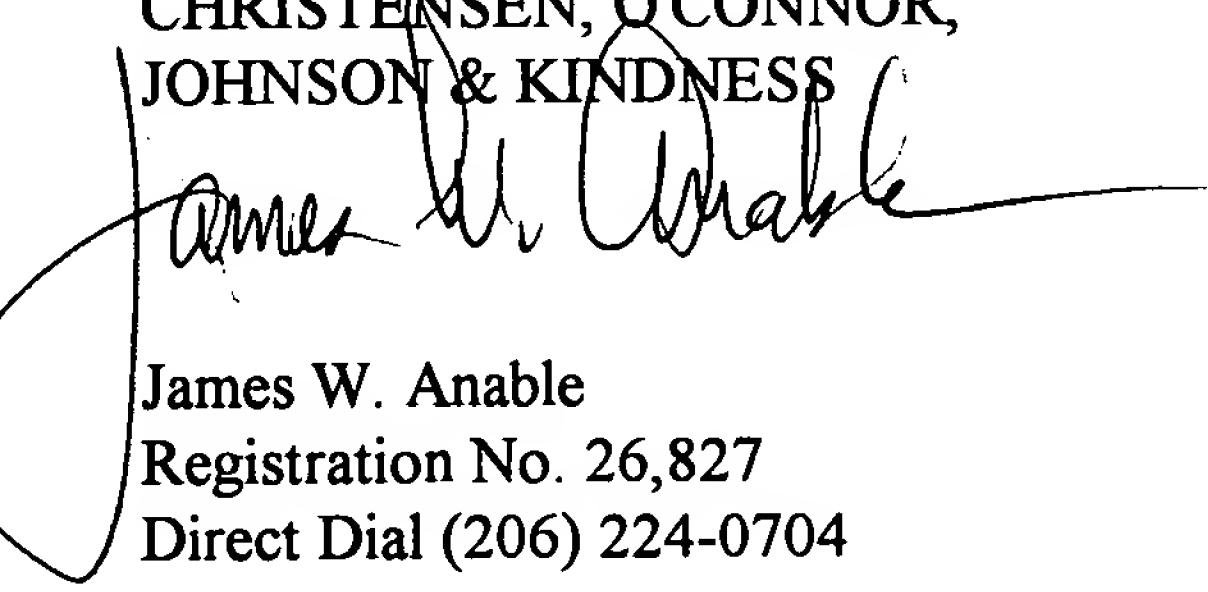
18 Applicants further request consideration as to whether applicants should be charged only for a
19 one-month extension of time. In particular, applicants response was filed within one month of the
20 shortened three month statutory period and, in addition, the transmittal letter that accompanied the
21 response authorized the charging of any additional fees to Deposit Account No. 03-1740. A copy of
22 the transmittal letter is enclosed. The charge for a one-month extension of time for a small entity is
23 \$55. Thus, if a one-month extension of time is appropriate under these circumstances, applicants
24 respectfully request a refund in the amount of \$815 (the \$870 charged minus the \$55 one-month
25 extension fee for a small entity).

1 The Patent Office is authorized to credit the amount refunded to Deposit Account
2 No. 03-1740.

3 If the reviewing party has any questions regarding this matter, the undersigned attorney should
4 be contacted at the telephone number listed below.

5 Respectfully submitted,

6 CHRISTENSEN, O'CONNOR,
7 JOHNSON & KINDNESS

8 
9 James W. Anable
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13 sealed envelope as first class mail with postage thereon fully prepaid addressed to: Commissioner of
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1	30	95	18018	08310121	NORT17842	201		✓35500	315800
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